

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

VANDENBERG & SONS FURNITURE,)	
INC. a Michigan corporation, individually and)	
as the representative of a class of similarly-)	
situated persons,)	
)	
Plaintiff,)	
)	Civil Action No: 1:15-cv-01255
v.)	
)	
ALLIANCE FUNDING GROUP and JOHN)	
DOES 1-10,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO COMPEL

NOW COMES Plaintiff, Vandenberg & Sons Furniture, Inc., through its undersigned attorneys, and pursuant to Federal Rule of Civil Procedure 37(a) respectfully requests this Court issue an order compelling Defendant to produce Neha Patel and Kathy Poncedeleon for deposition. In support of this Motion, Plaintiff states as follows:

1. On December 3, 2015, Plaintiff filed this Class Action Complaint challenging Defendant Alliance Funding Group's ("Defendant") alleged practice of sending unsolicited advertisements by fax. (Doc. 1). The federal Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227, *et seq.*, prohibits a person or entity from faxing or having an agent fax advertisements without the recipient's prior express invitation or permission or without the required opt-out language.

2. On March 3, 2016, this Court entered a case management order setting a fact discovery deadline of November 25, 2016, and a deadline of May 26, 2017 for Plaintiff to file its Motion for Class Certification. (Doc. 16).

3. On May 22, 2017 this Court granted the parties Joint Motion to Amend

Deadlines. (Doc.25).

4. On July 27, 2017, this Court granted Plaintiff's Motion to Amend Deadlines (Doc. 36). This order set the current deadlines as follows:

Fact discovery deadline:	September 22, 2017
Plaintiff's motion for class certification:	October 20, 2017
Defendant's response:	November 17, 2017
Plaintiff's reply:	December 15, 2017

5. The granting of Plaintiff's Motion was to allow time for Plaintiff to depose Neha Patel and Kathy Poncedeleon and to obtain discovery from, and/or depose a representative of InfoUSA.

6. On July 27, 2017, upon entry of the order, Plaintiff's counsel emailed Defendant's counsel requesting available dates in August for the depositions. (See Email chain, Exhibit A.)

7. On July 28, 2017, after no response, Plaintiff served its Notice of Taking Deposition, scheduling the depositions of Kathy Poncedeleon and Neha Patel for August 18, 2017 in Irvin, CA. (Exhibit B.)

8. On August 5, 2017, Defendant's counsel sent an email advising she was not available on August 18 and would review her availability and confer with her client and would advise as soon as possible. Plaintiff responded requesting workable dates as soon as possible, and Defendant replied restating she would review availability and advise as soon as possible. (Exhibit A.)

9. On August 7, 2017, Plaintiff's counsel again emailed requesting available dates. (Exhibit A.)

10. After receiving no available dates or further emails from Defendant's counsel, on August 16, 2017, Plaintiff again emailed requesting available dates. (Exhibit A.)

11. On August 17, 2017, Defendant's counsel responded she was still working with

her client and advised Ms. Poncedeleon had been out of town. She did not mention any date availability for Neha Patel. (Exhibit A.)

12. On August 31, 2017, after still not receiving any available dates from Defendant's counsel, Plaintiff has again emailed Defendant's counsel. (Exhibit A.)

13. The fact Discovery deadline in this matter is September 22, 2017. Per the Court's order, no further extensions will be granted. Plaintiff has been very diligent in attempting to schedule these two depositions and should not be prejudiced by the delays totally caused by Defendant.

WHEREFORE, Plaintiff respectfully requests this Court enter an order compelling Defendant to produce Kathy Poncedeleon and Neha Patel for deposition before the September 22, 2017 close of discovery deadline and for whatever further relief this Court deems appropriate.

Respectfully submitted,

VANDENBERG & SONS FURNITURE, INC,
individually and as the representative of a class of
similarly-situated persons

By: s/ Ross M. Good
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

s/ Ross M. Good